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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

10:58 am, Sep 06, 2023

U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

SUPPLEMENT MANUFACTURING
PARTNER, INC. d/b/a SMP NUTRA,

Case No. 2:23-cv-06585

Plaintiff,

-against-

WILLIAM CARTWRIGHT,

Defendant.

**TEMPORARY RESTRAINING
ORDER AND ORDER TO
SHOW CAUSE**

This matter having come before the Court upon the application of Plaintiff, Supplement Manufacturing Partner (“SMP Nutra” or “Plaintiff”), for a temporary restraining order, Plaintiff’s Memorandum of Law in Support of Plaintiff’s Motion for a Temporary Restraining Order and/or Preliminary Injunction dated September 5, 2023, the Declarations of Steven Milano, Joseph Imperio, Dave Borst, and Rachel Ann Stephens, and Plaintiff’s Complaint:

WHEREUPON THE COURT, having considered the matter, finds that:

- (1) Plaintiff has suffered, is suffering and will continue to suffer irreparable harm;
- (2) Plaintiff has a likelihood of success on the merits;
- (3) The balance of the hardships favors Plaintiff; and
- (4) Relief is necessary to prevent further harm to Plaintiff and to preserve evidence and/or other information that is relevant to the relief requested herein;
- (5) Defendant’s violations will continue unless a temporary restraining order is issued; and
- (6) The public benefits from the restoration of the *status quo ante*.

THEREFORE, IT IS HEREBY ORDERED that pending a hearing and determination on Plaintiff's application for preliminary injunction Defendant, his agents, officers, and employees, and all other persons and entities in active concert or participation with him:

- (a) Grant access to Plaintiff the <smpnutra.com> Office Exchange 365 account, the <smpnutra.com> domain name, the <smpnutra.com> website, and makes available all passwords for SMP Nutra accounts including, but not limited to, the HubSpot account; and
- (b) Restore and/or transfer exclusive control over all of the items in section (a) above to Plaintiff.

IT IS FURTHER ORDERED that pending a hearing and determination on Plaintiff's application for preliminary injunction Defendant, his agents, officers, and employees, and all other persons and entities in active concert or participation with him, are temporarily restrained from:

- (a) Accessing, searching, disclosing, copying, or otherwise converting Plaintiff's electronic files during the pendency of this action.
- (b) Engaging in any activity that uses Plaintiff's proprietary data, including but not limited to customer lists, vendor lists, and pricing models.
- (c) Denying Plaintiff access to the <smpnutra.com> Office Exchange 365 email accounts, the <smpnutra.com> domain name, the <smpnutra.com> website, and Plaintiff's Hubspot account.
- (d) Destroying, deleting, altering, or otherwise modifying data in the <smpnutra.com> Office Exchange 365 account, the <smpnutra.com> domain name, the <smpnutra.com> website, and Plaintiff's Hubspot account and taking

any action that would impede or prevent Defendant from complying with any subsequent order of the Court requiring the transfer from Defendant to Plaintiff the administrator rights to the <smpnutra.com> Office Exchange 365 account and the <smpnutra.com> domain.

(e) Destroying, deleting altering, or otherwise modifying all historical emails, data, and audit logs that belong to Plaintiff, including those through the <smpnutra.com> Office Exchange 365 account. Defendant shall take all action to preserve such audit logs.

IT IS FURTHER ORDERED that the parties may take expedited discovery to address all issues relevant to the application for a preliminary injunction.

IT IS FURTHER ORDERED that, sufficient reason having been shown therefore, pending the hearing of Plaintiff application for a preliminary injunction, pursuant to Federal Rule of Civil Procedure 65 or in the alternative an injunction pursuant to 18 U.S.C. § 2707(b)(1), the Defendant be temporarily restrained and enjoined in accordance with paragraphs above.

IT IS HEREBY FURTHER ORDERED that Defendant shall appear before this Court and the Honorable Joan M. Azrack, United States District Judge, via telephone, on the 7th day of September, 2023, at 10:00 a.m. to show cause why a preliminary injunction should not be granted.

IT IS FURTHER ORDER that a copy of this Temporary Restraining Order and Order to Show Cause, together with the Complaint, the Memorandum of Law in Support, the Milano

Declaration, the Imperio Declaration, and the Borst Declaration, shall be served upon Defendant, on or before the 6th day of September, 2023.

SO ORDERED this 6th day of September, 2023.

/s/ (JMA)

Hon. Joan M. Azrack
United States District Judge
Eastern District of New York